

REMARKS

In response to the restriction requirement, the Applicants elect to prosecute the claims in Group II, Species I, with traverse, with claims 12-30, 56-71, 80, and 87-90 being directed to Species I. Applicants further submit that newly added claim 80 is generic.

Applicants amend claims 28, 36, 63, 72, and 75 for minor typographical errors. Additionally, Applicants cancel claims 1-11, of which claim 1 was independent and claims 2-11 were dependent. In light of newly added independent claim 80, and newly added dependent claims 81-90, no additional fee is due because the Applicants have not added more independent or dependent claims in excess of what was paid-for at the time of filing.

Applicants respectfully submit that the restriction requirement with respect to Species I and II of Group II is improper on its face because it does not meet the requirement that search and examination of the entire application must be a serious burden on the Examiner. M.P.E.P. §803 states:

“If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

A search of all claims 12-36, 56-71, and newly added claims 80-90 within Group II would not be a burden, much less a serious burden in this case. A thorough search of the apparatus of claims 12-30 will necessitate a search of all devices used in a process control system. The subject matter of claims 12-30 is not so materially different from that of claims 31-36 to preclude one from searching both the field devices and the I/O devices simultaneously.

Thus, Applicants traverse the restriction requirement on the ground that there is no evidence in the Official action, or even an allegation, that search and examination of the entire application would be a serious burden on the examiner, as required by M.P.E.P. §803. Merely identifying two alleged different classifications of devices (Species I and II of Group II) does not prove the existence of a serious burden. In fact, Applicants respectfully submit that a complete search directed to the subject matter of the claims of Group II, Species I

would require a search directed to the subject matter of the claims of Group II, Species II, and vice versa.

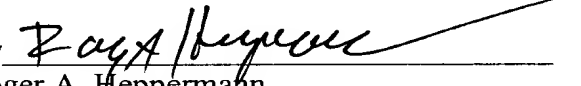
Because search and examination of the application can be made without a serious burden on the Examiner (and the Patent Office has not stated otherwise), it would be wasteful of the time, effort, and resources of both the Applicants and the Patent Office to prosecute claims 12-30 and 56-71 on the one hand, and claims 31-36 on the other hand, in separate applications. Search and examination of the two groups of claims together would be much more efficient than requiring the Patent Office and the Applicants to do so separately in multiple applications.

The Applicants file this paper within the one month shortened statutory period for reply and, therefore, no fee is due. However, the Commissioner is hereby authorized to charge any additional fees or to credit any overpayments to Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

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Respectfully submitted,

By



Roger A. Heppermann

Registration No.: 37,641

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicants